

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 15.m.

Meeting Type: Regular

Meeting Date: Jan 22, 2015

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Project Agreement between the City and Avenue Huntsville, LLLP.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute a Project Agreement between the City of Huntsville and Avenue Huntsville, LLLP.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: _____

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 1-22-15

RESOLUTION NO. 15-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Project Agreement on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Project Agreement between the City of Huntsville, and Avenue Huntsville, LLLP," consisting of twenty-six (26) pages including Exhibits, and the date of January 22, 2015, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 22nd day of January, 2015.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 22nd day of January, 2015.

Mayor of the City of
Huntsville, Alabama

PROJECT AGREEMENT

by and among
THE CITY OF HUNTSVILLE, ALABAMA
and
AVENUE HUNTSVILLE, LLLP

Dated: _____, 2015

PROJECT AGREEMENT

This Project Agreement (this "Agreement") is made and entered into on and as of this _____ day of _____, 2015 (the "Effective Date") by and among the City of Huntsville, Alabama, a municipal corporation under the laws of the State of Alabama (the "City") and Avenue Huntsville, LLLP, an Alabama limited liability limited partnership ("Avenue Huntsville"). Capitalized terms and phrases used herein without otherwise being defined have the meaning ascribed to such terms and phrase in Article I below.

WITNESSETH THAT:

WHEREAS, the City has been involved in planning for the development of certain areas of downtown Huntsville including, without limitation, the Development Area; and

WHEREAS, the Development Area is located in an area of the City, which the City deems an important location for planned, mixed-use urban development consisting of multi-family housing, commercial and retail enterprises, restaurants, and other businesses and establishments if developed and improved in accordance with elevated standards typical of successful urban redevelopment observed in other areas; and

WHEREAS, cities throughout the United States have adopted codes and undertaken other procedures that go beyond conventional zoning controls in order to advance land development regulatory mechanisms that place primary emphasis on the physical form of the built environment with the goal of producing a special type of place within the urban environment, which codes are based on the scale, character, intensity and form of development rather than solely on differences in land use; and

WHEREAS, absent adequate enabling laws in the State of Alabama, the City desires to achieve similar goals with respect to certain urban settings within its jurisdiction through agreements with developers that impose requirements for construction and development of facilities in accordance with higher standards of construction and design that cannot be achieved through zoning and other regulatory actions by the City; and

WHEREAS, the Development Area is situated in an area of the City that requires significant public parking improvements to address current and future parking demands; and

WHEREAS, the City published a request for proposal 95-2012-63-3 (the "RFP"), pursuant to which City requested the submission of proposals for the development of the Development Area; and

WHEREAS, Sealy Property submitted a response to the RFP, in which Sealy Property proposed to construct the Project on the Development Area and the City selected Sealy Property to develop the Development Area; and

WHEREAS, the Sealy Property assigned its development rights, title and interests under the Option Agreement to Project Owner; and

WHEREAS, Project Owner has agreed to ground lease the Development Area from the City for the purpose of constructing, developing, owning, operating, and leasing the Project; and

WHEREAS, City will construct and maintain the Surface Parking Lot on the Surface Parking Lot Area; and

WHEREAS, Project Owner has agreed to be responsible for constructing and operating the City Parking Spaces, and the City will bear none of such costs; and

WHEREAS, as part of its consideration for use of the City Parking Spaces and to induce Project Owner to undertake the Project, the City has agreed to be responsible for certain related costs consisting of, among others, certain improvements to the roads, surface parking lot, utility services and other infrastructure of and surrounding the Development Area as hereinafter described and which such construction will be of direct benefit to the City and its citizens; and

WHEREAS, the City has determined that development of the Project by Project Owner will inure to the benefit of the City and its citizens by, among other things, (i) expanding the tax base of the City by attracting to the Development Area general commercial activity and development, (ii) attracting to downtown Huntsville individuals who desire to live in an urban setting, (iii) facilitating the development of other portions of downtown Huntsville located in the vicinity of the Development Area, and (iv) enhancing the overall quality of life for the citizens of the City; and

WHEREAS, Project Owner will procure funds to pay for the development, construction, operation, maintenance and replacement of the Project from time to time, in part, by procuring the Loan from Lender; and

WHEREAS, in connection, with the Loan, Project Owner will grant Lender a Mortgage,

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 **Defined Terms.** Each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term:

“Affiliate” means any Person directly or indirectly Controlling, Controlled by or under Common Control with the Project Owner.

“Alabama Immigration Law” means Act No. 2011-535, Section 31-13-1 through 31-13-30 Code of Alabama 1975, as amended, known as the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, as the same may be amended.

“Authorizing Resolution” means, collectively, the resolutions adopted by the City Council on or about December 19, 2013, December 4, 2014 and January 22, 2015 authorizing and approving the Option Agreement and this Agreement.

“Avenue Subdivision” means The Avenue, a Re-Subdivision of Block 301 of the Quigley Map, a map or plat of which is recorded in the Probate Judge’s Office of Madison County, Alabama in Instrument Number _____.

“City Application Fees” means standard, usual and customary fees levied or assessed by the City to review and process applications for City Approvals.

“City Approvals” means standard, usual and customary permits or approvals required under City Regulations in order to develop, use and operate the Project.

“City Council” means the City Council of the City or its designee.

“City Parking Spaces” means the parking spaces located within the parking facilities in the Project, which are set aside for use by the City as more particularly provided in Section 4.2.

“City Provided Amenities” means the parking lot, roads, sidewalks, landscaping, street scape, utility services and other infrastructure within the rights-of-way surrounding the Development Area and on the Development Area up to the Construction Line, all as more particularly described on Exhibit “A” attached hereto.

“City Regulations” means the Zoning Ordinance and all other laws, ordinances, resolutions, codes, rules, regulations and policies of the City in effect as of the time in question.

“Collateral Assignee” means (a) Lender, if and once Lender forecloses under a Mortgage or takes an assignment in lieu of foreclosure of a Mortgage, and (b) any other purchaser pursuant to a foreclosure under a Mortgage or other grantee of an assignment in lieu of foreclosure of a Mortgage.

“Common Control” means that two Persons are both controlled by the same other Person.

“Construction Line” means the line inside the perimeter of the boundary lines of the Development Area designated as the “City’s Construction Line” on the Site Plan.

“Control” means the ownership (direct or indirect) by one Person of an interest in the profits and capital and the right to manage and control the day to day affairs of another Person. The term “Control” includes any grammatical variation thereof, including “Controlled” and “Controlling”.

“Development Area” means Lot 1 of Avenue Subdivision.

“Force Majeure” means and includes any and all causes which could not have been foreseen or are beyond the control of a party and which are not the result of such party’s fault, negligence, or deliberate act. Such causes include but are not restricted to, acts of the public enemy, acts of any government in either its sovereign or proprietary capacity (other than acts taken by the City in accordance with this Agreement), fires, floods, hurricanes, epidemics, quarantine

restrictions, freight embargoes, or unusually severe weather (not including normal seasonal inclement weather).

“Governmental Agencies” means all governmental or quasi-governmental agencies (such as public utilities) having jurisdiction over, or the authority to regulate development of, the Project. As used in this Agreement, the term “Governmental Agencies” does not include the City or any of the departments of the City.

“Governmental Agency Approvals” means all permits and approvals required by Governmental Agencies under Governmental Agency Regulations for construction, development, operation, use or occupancy of the Project.

“Governmental Agency Regulations” means the Laws, ordinances, resolutions, codes, rules, regulations and official policies of Governmental Agencies in effect as of the time in question.

“Ground Lease Agreement” means the Ground Lease Agreement dated contemporaneously herewith between the City and Project Owner with respect to the ground lease of the Development Area.

“Laws” means the Constitution and laws of the State of Alabama, the Constitution of the United States, and any federal, state, county or City ordinances, codes, statutes, regulations, or executive mandates, and any court decision, State or federal, with respect thereto.

“Lender” means: (a) the holder or holders of the beneficial interest under a Mortgage; and (b) any successors, assigns and designees of the foregoing.

“Loan” means collectively all loans obtained by Project Owner from Lender, as the same may be extended, renewed, and increased from time to time.

“Mortgage” means: a mortgage or deed of trust, or other transaction, in which the Project Owner conveys or pledges as security its leasehold interest in the Premises or any portion thereof, or any interest therein, or any buildings or improvements thereon for the purpose of (i) financing the Project Owner’s acquisition, development and construction of the Premises, or any portion thereof, (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering its leasehold interest in the Premises or a portion thereof.

“Official Records” shall mean the records on file in the Office of the Judge of Probate of Madison County, Alabama.

“Option Agreement” means that certain Option Agreement to Lease Real Estate dated December 19, 2013, as amended by that certain First Amendment to Option Agreement to Lease Real Estate dated December 4, 2014 between the City, Sealy Property and Avenue Huntsville.

“Permitted Transferee” means a Transferee who has complied in all respects with the provisions of Article VII of this Agreement.

“Person” means an individual, partnership, firm, association, corporation, trust, governmental agency, administrative tribunal or other form of business or legal entity.

“Planning Commission” means the Planning Commission of the City.

“Premises” means, collectively, the Development Area and the Project.

“Project” means the mixed-use development project meeting the Project Minimums to be developed on the Development Area by Project Owner.

“Project Minimums” means the Project must contain at least the following: (a) a multi-family apartment complex containing at least 120 residential units, (b) 20,000 square feet of retail space, (c) either an additional 50,000 square feet of office space or an additional 50 residential multi-family apartment units, and (d) 350 total parking spaces within the five level parking deck with at least 40 of those parking spaces designated as City Parking Spaces available to the City on a 24/7 basis.

“Project Owner” means Avenue Huntsville or its Permitted Transferees.

“Site Plan” means the conceptual site plan for each component of the Project attached to this Agreement as Exhibit “B”.

“Sealy Property” means Sealy Property Development, LLC, an Alabama limited liability company.

“Site Work” means the work necessary or desirable to perform all required clearing and grubbing, utility installation and earthwork, and to level and grade property within and around the Development Area to cause the provision of necessary utilities to the Project, including, but not limited to, (i) stripping topsoil, necessary cut and fill and earthwork compaction, (ii) construction of temporary drainage ditches, culverts and structures, including pipes, and other on-site and off-site facilities for storm water management required to facilitate mass grading; (iii) construction of control mechanisms for erosion control to include necessary retention ponds; (iv) site preparation engineering and management of the site preparation contractor; (v) fencing around and within the Development Area; (vi) lime stabilizing the building pads; and (vii) electric, gas, water and other public utility improvements necessary for the implementation and operation of the Project.

“State” means the State of Alabama and any department or agency acting on behalf of the State.

“Surface Parking Lot” means the surface parking lot constructed on the Surface Parking Lot Area by the City.

“Surface Parking Lot Area” means Lot 2 of Avenue Subdivision.

“Term” means the term of this Agreement, as determined pursuant to Article VI hereof, unless sooner Terminated as provided in this Agreement.

“Terminate” means the expiration of the Term of this Agreement, or any termination of this Agreement by any party entitled to do so by the express provisions of this Agreement. The term “Terminate” includes any grammatical variant thereof, including “Termination” or “Terminated”.

“Transfer” means the sale, assignment (as collateral or otherwise), encumbrance, transfer or hypothecation by the Project Owner of any of its or their rights, duties or obligations under this Agreement, which may be made only in accordance with the terms, standards and conditions of Article VII of this Agreement. Transfers do not include (a) a dedication of any portion of the Development Area to the City or a Governmental Agency; (b) any other leases, subleases, licenses and operating agreements entered into in the ordinary course of business by Project Owner with tenants of the Project for occupancy of space in any buildings or improvements (together with any appurtenant tenant rights and controls customarily included in such leases or subleases), and any assignment or transfer of any such lease, sublease, license or operating agreement by either party thereto; or (c) a collateral assignment of a Project Owner’s rights under this Agreement to a Lender providing financing with respect to the Project.

“Transferee” means the Person to whom a Transfer is proposed in accordance with Article VII of this Agreement.

“Zoning Ordinance” means The Zoning Ordinance of the City of Huntsville, Alabama.

1.2 Certain Other Terms. Certain other terms shall have the meanings set forth for each such term in this Agreement.

ARTICLE II PRELIMINARY MATTERS

2.1 General. In consideration of, and in reliance on, the covenants and commitments of the parties contained in this Agreement the City agrees, and is unconditionally obligated, to complete or cause the completion of the construction of the City Provided Amenities, and the Project Owner agrees, and is unconditionally obligated, to complete or cause the completion of the construction, leasing and operation of the Project.

2.2 Certain Financing Matters. The Project Owner hereby agrees to cooperate with the City, and to provide any and all documents and information, as may be reasonably required to enable the City to obtain funding for the City Provided Amenities.

2.3 Access. During construction of the City Provided Amenities, the City reserves, and will have access for itself and those working on its behalf, from public roadways onto the Development Area up to the Construction Line in order to construct the City Provided Amenities and also will have access onto that portion or portions of the Development Area that are reasonably necessary in order for the City to construct the City Provided Amenities. The City will coordinate the construction of the City Provided Amenities with Project Owner’s construction schedule for the Project. The City recognizes that Project Owner will need access to certain portions of City property for reasonable staging needs in connection with the construction of the Project, and the City and Project Owner shall work together in good faith for access for such activities to occur. Temporary construction easements are addressed further in the Ground Lease Agreement between the Project Owner and the City.

2.4 Designation of Coordinators. The parties agree that it is in the best interests of the City and the Project Owner for the development, design, construction, equipping and start-up

of the Project and the City Provided Amenities to proceed in an expeditious manner and that time is of the essence. Accordingly, in order for the Project to commence as soon as possible after the Effective Date and to proceed in an orderly and expeditious manner, the City and the Project Owner agree to designate one or more project coordinators to monitor and coordinate the acquisition, design, permitting, and construction of the Project in accordance with this Agreement.

2.5 Undertakings after the Effective Date. The parties acknowledge that certain matters relating to the Project have not been completed prior to the Effective Date. Accordingly, the Project Owner and the City will coordinate to the extent possible and cooperate with each other in connection with the finalization of the plans and specifications as promptly as possible after the Effective Date.

ARTICLE III REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the City.

(a) The execution and delivery of this Agreement by the City have been duly authorized by the City Council of the City pursuant to the Authorizing Resolution.

(b) Pursuant to the Authorizing Resolution the City has all right, power and authority to enter into the transactions contemplated by this Agreement and to perform its obligations hereunder.

(c) This Agreement and the other contracts and agreements heretofore executed by the City in connection with the transactions contemplated herein constitute the valid and binding obligations of the City, enforceable against it in accordance with their respective terms.

3.2 Representations and Warranties of Project Owner.

(a) The execution and delivery of this Agreement by the Project Owner has been duly authorized by all necessary action on the part of the Project Owner's partners.

(b) The Project Owner has all necessary power and authority to enter into the transactions contemplated by this Agreement and to perform its obligations hereunder.

(c) This Agreement and the other contracts and agreements heretofore executed by the Project Owner in connection with the transactions contemplated herein constitute the valid and binding obligations of the Project Owner, enforceable against it in accordance with their respective terms.

(d) In order to commence construction of the Project by the dates contemplated under this Agreement, the Project Owner will possess all licenses, certificates, and permits that are required to construct, own, operate, use and maintain the Development Area in the manner contemplated herein, and all such licenses, certificates, and permits will be in full force and effect.

(e) In accordance with applicable provisions of the Alabama Immigration Law, the Project Owner hereby represents and warrants that (i) it has not knowingly employed, hired for employment, or continued to employ, any unauthorized alien, (ii) it is enrolled in the federal E-Verify Program and will remain so enrolled and participate in the federal E-Verify Program throughout the performance of its obligations under this Agreement and through completion of the Project, (iii) it shall verify every employee that is required to be verified according to the applicable federal rules and regulations, (iv) it shall assure that every subcontractor complies with the applicable provisions of the Alabama Immigration Law, and (v) it shall maintain records according to all applicable federal and state immigration laws and regulations, including, without limitation, the Alabama Immigration Law. In furtherance, and not in limitation, of the foregoing, the Project Owner has completed, executed and delivered to the City, on or prior to the Effective Date, a duly sworn affidavit signed before a notary, in substantially the form set forth as Exhibit "C" attached hereto or in the form published by the Secretary of State of the State of Alabama.

ARTICLE IV PROJECT

4.1 Development of the Project.

(a) The Project Owner hereby agrees, with and for the benefit of the City, as follows:

(i) As of the Effective Date, the Project Owner will execute the Ground Lease Agreement and acquire leasehold title to the Development Area; and

(ii) The Project Owner will develop the Project in accordance with the terms and conditions of this Agreement and plans and specifications for the Project.

(b) The City acknowledges that uncertainties associated with market and economic conditions and other factors may alter the scope of the Project. The City acknowledges that the Project Owner may need to modify the Project and that any such modification will be subject to the approval of the City's Planning Department, such approval not being unreasonably withheld ; provided, that:

(i) The Project will meet the Project Minimums; and

(ii) Subject to the foregoing, and to delays caused by Force Majeure, construction of the Project must commence within six (6) months after the Effective Date and be completed no later than eighteen (18) months after the commencement of construction. The City's Planning Department may extend the required completion date if it determines, in its discretion, that the Project Owner is making reasonable progress on the Project in light of all relevant circumstances.

(c) The City acknowledges and agrees that the Project Owner may develop the Project utilizing a condominium or similar structure. Any costs associated with utilizing a condominium or similar structure shall be solely at the Project Owner's expense. The City

agrees to reasonably cooperate with the Project Owner in implementing such condominium or similar structure.

(d) The Project Owner agrees to use all commercially reasonable efforts to complete the construction and development of the Project as promptly as possible within eighteen (18) months following the commencement of construction and to comply with all Laws, including, without limitation, the Alabama Immigration Law, and all City Regulations applicable to the construction, development, and operation of the Development Area and the Project.

4.2 City Parking Spaces. Within the parking facilities in the Project, the Project Owner agrees to include the City Parking Spaces, in the manner set forth below:

(a) The number of City Parking Spaces shall meet at least the number of parking spaces required by the Project Minimums. Project Owner shall cooperate with the City on its parking needs and will strive to furnish additional parking spaces as needed by the City, including up to thirty (30) additional spaces (for a total of seventy (70) spaces) at no cost to the City based on peak hour availability if additional spaces are built or otherwise become available.

(b) The City shall not be required to fund any portion of these construction and development costs of the City Parking Spaces. The Project Owner shall be solely responsible for the payment of any and all costs of constructing, equipping and maintaining the City Parking Spaces.

(c) The City Parking Spaces shall be privately owned and operated and, except as provided herein and liability arising from the negligence or willful misconduct of the City, the City shall have no liability with respect thereto, nor any obligation to manage, control, maintain, or operate the City Parking Spaces as a public facility. In furtherance, and not in limitation, of the foregoing, the Project Owner hereby agrees, with and for the benefit of the City, that upon completion of its construction, the City Parking Spaces will be operated by, and all costs and liabilities arising or otherwise related to the operation of the City Parking Spaces will be borne by the Project Owner.

(d) The City Parking Spaces will be available for the exclusive use of the City seven (7) days a week on a twenty-four (24) hour basis.

(e) The vehicles parked by City designees in the City Parking Spaces must fit into standard size parking spaces and such vehicles must meet the clearance requirements of the Project parking structure.

(f) The City covenants and agrees not to place, store or use any toxic or hazardous substances or materials in the City Parking Spaces.

(g) The City agrees that its designees using the City Parking Spaces shall abide by Project parking rules adopted by the Project Owner. To the extent applicable to the City Parking Spaces and the City's access to the City Parking Spaces, such rules shall be developed in coordination with the City's Parking Director. These parking rules shall be

provided to the City or posted by the Project Owner from time to time regarding noise, vehicle emissions, and other rules based on commercially acceptable standards for residential and retail parking facilities. Vehicles or their owners that violate such parking rules may be denied access to the City Parking Spaces by the Project Owner.

(h) The Project Owner and the City shall jointly determine the location of the City Parking Spaces with the goal being to locate the spaces such that the best interests of both parties are addressed.

(i) The Project Owner may restrict access to the City Parking Spaces, in which case, the Project Owner, solely at its own cost and expense, will provide the City with appropriate access control to use during the Designated Hours.

(j) The City will not be allowed to use the Development Area for parking while Project construction is occurring or the Project is otherwise being developed.

(k) The City's rights to use the City Parking Spaces shall continue in full force and effect in the event that the Project Owner exercises its option to purchase the Development Area as provided in the Ground Lease Agreement. The City's right to use the parking spaces shall survive a Termination of this Agreement due to the completion of the development of the Project and shall continue for as long as the Project parking facilities remain in use as a parking structure.

4.3 Street Closures/Relocations. The City acknowledges and agrees that, in the course of construction of the Project, it will be necessary to periodically close portions or all of certain streets, lanes, sidewalks and other rights of way to accommodate the construction of certain other public infrastructure improvements and private development. The City acknowledges and agrees that it will cooperate with Project Owner from time to time in closing such streets, lanes, sidewalks and other rights of way as necessary that are adjacent to the Development Area.

4.4 Surface Parking Agreements. In coordination with Project Owner's rights under the easement rights in and to the Surface Parking Lot Area described in the Ground Lease Agreement, City will construct and maintain the Surface Parking Lot on the Surface Parking Lot Area in accordance with Exhibit A. The City covenants and agrees that it will coordinate with the Project Owner when determining the best way to regulate parking adjacent to the Development Area. The obligations of the City under this Section shall survive a Termination of this Agreement due to the completion of the development of the Project.

ARTICLE V ARCHITECTURE, ENGINEERING AND DESIGN REVIEW PROCESS GOVERNING THE PROJECT

5.1 Site Plan. The parties acknowledge and agree that the Project involves the development of buildings and improvements on the Development Area, in accordance with the terms of this Agreement, as the same may be modified from time to time in accordance with the terms hereof. The Site Plan is a conceptual site plan for all aspects of the Project. The parties acknowledge and agree that the Site Plan is conceptual in nature only and that the Project

Owner shall have the right to change and modify the Site Plan in the exercise of its business judgment, including, without limitation, making changes to the type, phasing, location, and square footage of any of the buildings and improvements depicted on the Site Plan and their respective uses, so long as (a) the Project, as so modified, complies with all applicable City Regulations (or any variances and special exceptions hereafter proposed by the Project Owner and granted by the City's Board of Adjustment) and other Laws and (b) the Project, as so modified, will meet the Project Minimums, unless the prior written consent of the City Council is obtained.

5.2 Nothing in this Agreement is intended, should be construed or shall operate to preclude or otherwise impair the rights of the Project Owner from applying to the City's Board of Zoning Adjustment for a variance or exception under the Zoning Ordinance with respect to any proposed buildings and improvements in its respective portion of the Project (collectively, the "Variances") in accordance with the procedures applicable to Variances under the City Regulations then in effect.

5.3 Design Criteria. Notwithstanding any provision to the contrary contained in this Agreement, in any Exhibit or Schedule attached hereto, or in any other document submitted by the Project Owner to the City in connection with the transactions contemplated by this Agreement, the Project Owner hereby agrees that its Project, and all components thereof, shall be constructed in compliance with the design criteria contained in this Section 5.3, as follows. Modifications and/or variations from these criteria may be allowed upon review and written approval by the Director of Planning (or her designee) for the City of Huntsville, in her sole discretion.

(a) The front façade of, and principal entrances to, each new building shall be oriented toward a public street. If that is not possible due to the function of the use, front facades and the principal entrance shall be oriented toward a permanent pedestrian access easement which will be open for public pedestrian use. All facades oriented along public streets shall be designed to encourage pedestrian activity.

(b) Where sidewalks are less than fifteen (15) feet in width, doorways shall be recessed into the building interior or set back from the sidewalk to a depth sufficient to separate sidewalk traffic from outwardly opening doors, to create focal interest, and to punctuate the street wall.

(c) Construction shall utilize approved materials for the exterior cladding of all visible wall surfaces. Approved natural materials include, but are not limited to, brick, stone, concrete stucco, terra cotta, precast concrete and glass. Exterior Insulation and Finish System may be used on floors above the first level if articulated and detailed to add visual interest. High-end architectural metal fabrications and cementitious siding (both lap and board and batten) may be used if detailed and arranged to add to the building concept and for miscellaneous details (e.g., canopies, copings, fasciae, soffets, etc.). If cementitious siding is used, it shall not be the predominant wall material and must be used with other approved materials in proportion. Other synthetic and imitation material, as well as metal, aluminum (pre-engineered metal building siding), vinyl and plastic materials are not acceptable.

(d) To create an animated streetscape, at least fifty percent (50%) of the street level/street facing walls of commercial buildings shall be openings, including windows and doorways. An unbroken expanse of solid or blank wall shall not exceed twenty (20) linear feet. Devices suitable to break such a wall span include street art, fountains, plazas, trees and other landscaping, pedestrian furniture and the introduction of variety in materials, texture, color and/or pattern of wall materials.

(e) Windows located in street level walls, with the exception of stained glass windows, shall be transparent.

(f) All power, communication and other wiring shall be located underground.

(g) All exterior mechanical equipment, trash facilities, and loading areas shall be adequately screened as well as practicable, so as not to be visible from any street or by pedestrians, nor allow any unpleasant odor, excessive noise, or any unsanitary or unsightly condition perceptible from any other part of the Project.

(h) To create appropriate massing, construction within the site shall consist of structures which are a minimum of five stories or fifty-five feet in height.

5.4 Project Signage. The Project Owner may provide, at its sole cost and expense, signage for the Project that is permitted in the City Regulations.

5.5 Governmental Agency Approvals. The Project Owner shall apply for and pursue all required Governmental Agency Approvals from Governmental Agencies which are required during the course of design, development, construction, use or occupancy of the Project, as applicable. The Project Owner shall take such reasonable steps as are necessary to obtain all such Governmental Agency Approvals and shall bear all costs and expenses for obtaining such Governmental Agency Approvals. When and if obtained, copies of all such Governmental Agency Approvals shall be submitted to the City promptly after a Project Owner's receipt of a written request therefore from the City. The Project Owner shall comply with, and shall cause its portion of the Project to comply with, all Governmental Agency Regulations and Laws related to the development, use and operation of the Project.

ARTICLE VI TERM AND TERMINATION

6.1 Term. This Agreement, upon its execution and delivery by all parties thereto, shall become effective on the Effective Date and shall continue in effect until (a) the expiration or earlier termination of the Ground Lease Agreement, or (b) if sooner, upon the Termination of this Agreement by the parties in accordance with its terms.

6.2 Termination. This Agreement may be Terminated by the unanimous written consent of the parties to this Agreement and Lender, at any time prior to completion of the development of the Project.

6.3 Effect of Termination. Upon any Termination of this Agreement in accordance with its terms, all obligations of the parties hereunder will terminate, except that (a) any obligations

expressly stated herein to survive Termination of this Agreement shall remain in full force and effect, and (b) any obligations arising prior to the date of such Termination, including without limitation, any payment obligations of the parties hereunder shall survive such Termination and shall be fulfilled by the party obligated thereunder.

ARTICLE VII ASSIGNMENT AND TRANSFER

7.1 Restrictions on Assignment: Conditions Precedent. Except as otherwise expressly set forth in this Article VII, the Project Owner shall not have any right to Transfer its rights or obligations under this Agreement, and any Transfer of this Agreement or any of the rights or obligations hereunder in violation of this Article VII shall be void. Notwithstanding the foregoing, and to the extent, permitted herein, the Project Owner may effect a Transfer of its rights under this Agreement upon the satisfaction of each of the following conditions precedent:

(a) The Project Owner shall be in compliance with all of its obligations hereunder as of the effective date of the proposed assignment.

(b) Prior to the effective date of the proposed Transfer, the Project Owner and proposed Transferee have delivered to the City an executed and acknowledged assignment and assumption agreement ("Assumption Agreement") in recordable form. Such Assumption Agreement shall include provisions regarding: (a) the rights and interest proposed to be Transferred to the proposed Transferee; (b) the obligations of the Project Owner under this Agreement that the proposed Transferee will assume; and (c) the proposed Transferee's acknowledgment that such Transferee has reviewed and agrees to be bound by this Agreement. The Assumption Agreement shall also include the name, form of entity, and address of the proposed Transferee, and shall provide that the Transferee assumes the obligations of the Project Owner to be assumed by the Transferee in connection with the proposed Transfer. The Assumption Agreement shall be recorded in the Official Records in the Office of the of Probate in Madison County, Alabama concurrently with the consummation of the Transfer.

7.2 Transfer to Affiliate. A Project Owner may Transfer all of its rights, duties and obligations under this Agreement to an Affiliate of such Project Owner without the consent of the City; provided, that (i) the Project Owner shall provide at least five (5) business days advance Notice of such Transfer to the City, and (ii) unless the City agrees in writing to the contrary, no such Transfer shall, or shall be deemed to, release the Project Owner from its obligations hereunder and the Project Owner shall be jointly and severally responsible for the satisfaction of its remaining obligations hereunder. Such Affiliate shall become a Permitted Transferee upon: (a) delivery to the City of an Assumption Agreement pursuant to Section 7.1 hereof assuming, from and after the date such Affiliate acquires its interest, the applicable rights, duties and obligations of the Project Owner under this Agreement, and (b) unless the prior written consent of the City to the contrary is first obtained, the Project Owner acknowledges in writing its continued responsibility for the full and timely performance of all of its obligations hereunder by such Affiliate.

7.3 Consent of City Required. Project Owner shall not Transfer all or any portion of its rights or obligations under this Agreement to any Person without the prior written consent of the City, which shall not be unreasonably withheld, conditioned or delayed; provided, that the prior

consent of the City shall not be required for (a) the granting of a Mortgage on or with respect to the Development Area in order to finance the costs of the Project, (b) the collateral assignment of the Project Owner's rights under this Agreement in order to finance such Project costs, or (c) any Transfer made by virtue of the foreclosure or deed or assignment in-lieu-of foreclosure of any Mortgage or collateral assignment, or (d) any leases, subleases, licenses and operating agreements entered into in the ordinary course of business by Project Owner with tenants of the Project for occupancy of space in any buildings or improvements (together with any appurtenant tenant rights and controls customarily included in such leases or subleases), and any assignment or transfer of any such lease, sublease, license or operating agreement by either party thereto.

7.4 Collateral Assignee. If Collateral Assignee forecloses on the collateral assignment of the Project Owner's rights under this Agreement, such Collateral Assignee shall be bound by the terms of this Agreement and shall have the right to enforce the City's obligations under this Agreement. Each Collateral Assignee's liability under this Agreement will be limited to such Collateral Assignee's interest in the Project.

7.5 Delegation. For clarification, Project Owner may retain such developers, contractors, engineers, architects as it deems advisable to complete the Project.

ARTICLE VIII NOTICES

8.1 Delivery of Notices. All notices, statements, demands, consents and other communications ("Notices") required or permitted to be given by any party to another party pursuant to this Agreement or pursuant to any applicable law or requirement of public authority shall be properly given only if the Notice is: (a) made in writing (whether or not so stated elsewhere in this Agreement); (b) given by one of the methods prescribed in Section 8.2; and (c) sent to the party to which it is addressed at the address set forth below or at such other address as such party may hereafter specify by at least five (5) calendar days' prior written notice:

If to the City:

City of Huntsville
Attention: Mayor
308 Fountain Circle
P.O. Box 308
Huntsville, Alabama 35804
Fax: (256) 427-5121

With a copy to the attention of

City of Huntsville
Attention: City Attorney
308 Fountain Circle
P.O. Box 308
Huntsville, Alabama 35804

If to Project Owner:

Avenue Huntsville, LLLP
500 Eustis Avenue
Huntsville, AL 35801
Attention: Mr. Charlie O. Sealy, III
Facsimile: (256) 489-9121

With a copy to:

J. Marland Hayes
J. Marland Hayes, LLC
P. O. Box 1346
505 Energy Center Blvd., Suite 604 (35473)
Northport, AL 35476
Facsimile: (205) 764-9216

8.2 Methods of Delivery. Notices may be either: (a) delivered by hand; (b) delivered by a nationally recognized overnight courier which maintains evidence of receipt; or (c) sent by facsimile transmission with a confirmation copy delivered the following day by a nationally recognized overnight courier which maintains evidence of receipt. Notices shall be effective on the date of receipt. If any Notice is not received or cannot be delivered due to a change in address of the receiving party, of which notice was not properly given to the sending party, or due to a refusal to accept by the receiving party, such Notice shall be effective on the date delivery is attempted.

8.3 Lender. Each Lender shall be copied on all Notices hereunder by the party delivering such Notice at the address set forth below or at such other address as Lender may hereafter specify by at least five (5) calendar days' prior written notice:

If to Lender:

CB&T, a division of Synovus Bank, as
administrative agent for itself and certain other
lender(s)
P.O. Box 120
1148 Broadway
Columbus, Georgia 31902
Attention: Keith Beckham (CB&T Bank Middle
Georgia)
Facsimile: 478-971-7016

With a copy to:

CB&T Bank of Middle Georgia, a division of
Synovus Bank
871 Warren Drive (31088)
P.O. Box 2107
Warner Robins, Georgia 31099
Attention: Keith Beckham
Facsimile: 478-971-7016

With a copy to: Synovus Bank – Syndications
3280 Peachtree Street, NE.
Bldg. 100, 5th Floor
Atlanta, Georgia 30305
Attn: Monica Cochran - Syndications
Facsimile: 888-856-2456

With a copy to: Maynard, Cooper & Gale, P.C.
655 Gallatin Street
Huntsville, Alabama 35801
Attention: Kevin Gray
Facsimile: (256) 512-0119

ARTICLE IX MISCELLANEOUS

9.1 Negation of Partnership. The parties specifically acknowledge that none of the parties is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between or among any two or more of the parties, or cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended and shall not be construed to create any third party beneficiary rights in any Person who is not a party or a Permitted Transferee; and nothing in this Agreement shall limit or waive any rights any one or more of the parties may have or acquire against any third Person with respect to the terms, covenants or conditions of this Agreement.

9.2 Approvals. Unless otherwise provided in this Agreement, whenever approval, consent, satisfaction, or decision (herein collectively referred to as an “Approval”), is required of a party pursuant to this Agreement, it shall not be unreasonably withheld or delayed. If a party shall disapprove, the reasons therefore shall be stated in reasonable detail in writing. Approval by a party to or of any act or request by the other party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests.

9.3 Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any of the real property described or referred to herein, or any buildings or improvements constructed thereon, to the general public, for the general public, or for any public use or purpose whatsoever.

9.4 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any Person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other Person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

9.5 Exhibits. The Exhibits, to which reference is made herein, are deemed incorporated into this Agreement in their entirety by reference thereto.

9.6 Amendment. Except as expressly provided in this Agreement, this Agreement may be modified or amended only by a written instrument, executed by each of the parties to this Agreement. Any material amendment to this Agreement is subject to Lender's prior written approval which shall not be unreasonably withheld, conditioned or delayed.

9.7 Entire Agreement. This written Agreement and the Exhibits hereto, contain all the representations and the entire agreement among the parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits hereto. Neither the conduct nor actions of the parties, nor the course of dealing or other custom or practice between or among the parties or any of them, shall constitute a waiver or modification of any term or provision of this Agreement. This Agreement may be modified or amended only in the manner specified in this Agreement.

9.8 Construction of Agreement. All of the provisions of this Agreement have been negotiated at arm's-length between the parties and after advice by counsel and other representatives chosen by each party, and the parties are fully informed with respect thereto. Therefore, this Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provisions hereof, or by reason of the status of either party. The provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions hereof, in order to achieve the objectives and purpose of the parties hereunder. The captions preceding the text of each Article and Section are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement.

9.9 Further Assurances; Covenant to Sign Documents. Each party shall take all actions and do all things, and execute, with acknowledgment or affidavit if required, any and all documents and writings, which may be necessary or proper to achieve the purposes and objectives of this Agreement.

9.10 Governing Law. This Agreement, and the rights and obligations of the parties, shall be governed by and interpreted in accordance with the laws of the State of Alabama.

9.11 Counterpart Execution. For convenience, this Agreement may be executed by the parties in multiple counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same Agreement.

9.12 Liabilities of the City. The Project Owner understands, acknowledges and agrees that the obligations of the City as set forth herein are limited by the limitations imposed on public bodies, municipalities and public corporations by the Constitution of the State of Alabama and laws affecting the use and maintenance of public property. Anything in this Agreement to the contrary notwithstanding, whether express or implied, in the event the City Provided Amenities, or any portion thereof, is not constructed or otherwise operational by any estimated dates of completion, or is designed or constructed in a manner not suitable to the Project Owner, the sole and exclusive

remedy of the Project Owner shall be specific performance, and the Project Owner shall not be entitled to any other damages whatsoever, including, without limitation, incidental or consequential damages, whether arising at law or in equity.

9.13 Construction of the Project. All construction activities regarding any portion of the Project shall be conducted in compliance with all applicable Laws, ordinances, rules and regulations of any governmental authority having jurisdiction thereof, including, without limitation, the Alabama Immigration Law, any and all federal Laws, and all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The Project Owner shall cause any architect, general contractor, subcontractor or other business performing any work in connection with the construction of the Project to obtain all necessary permits, licenses and approvals to construct the same, and to comply with all applicable Laws to the same extent as those imposed upon the Project Owner in accordance with this Section 9.13. It is understood and acknowledged that the City will not waive any City Application Fees, or any other fees, access fees, or related expenses for any permits, licenses or approvals that must be obtained from the City or any other governmental authority in connection with the construction or operation of the Project.

9.14 Maintenance of Facilities. The Project Owner shall maintain in good condition and repair all parking facilities, roadways, curbs, gutters, sidewalks, landscaping, signage, retaining walls, planters, railings, lighting, ramps, steps, pavers, hardscape, structures and other improvements located on the Development Area. The City shall maintain in good condition and repair all parking lots or facilities, roadways, curbs, gutters, sidewalks, landscaping, signage, retaining walls, planters, railings, lighting, ramps, steps, pavers, hardscape, structures and other improvements located on the Surface Parking Lot Area.

9.15 Remedies. In the event of a default by the City under this Agreement or other documents executed in connection herewith, the sole and exclusive remedy available to the Project Owner shall be specific performance. The Project Owner shall not be entitled to any other damages whatsoever, including, without limitation, incidental damages, consequential damages or punitive damages, whether arising at law or in equity. In the event of a default by the Project Owner under this Agreement or other documents executed in connection herewith, the City shall have the right to obtain specific performance of the Project Owner's obligations under this Agreement and shall be entitled to pursue any other rights or remedies provided in this Agreement, together with those available to it at law or in equity, including the right to monetary damages, upon the failure of Project Owner to carry out any of its obligations under this Agreement.

[THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK]

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed and delivered on its behalf by its duly authorized officer, on and as of the Effective Date.

CITY OF HUNTSVILLE, ALABAMA

By: _____
Its Mayor

ATTEST:

By _____

Its _____

AVENUE HUNTSVILLE, LLLP

By: Avenue Huntsville GP, LLC
Its General Partner

By: _____
Charlie O. Sealy, III
As Manager of Avenue Huntsville
GP, LLC

[Signature Page to Project Agreement]

EXHIBIT "A"

CITY PROVIDED AMENITIES

City will provide certain amenities as described below to be constructed up to the Construction Line as delineated in Exhibit "B", Site Plan.

Phase I Items of Work:

- (a) Surface Parking Lot at the northern portion of the property as shown on the Site Plan, which lines up with Meridian Street and extends from Jefferson Street to Spragins Street.
 - 1. City shall provide parking lot design and construction including but not limited to subgrade and cap with a base course hereby making this area a laydown area for the Developer to store materials during construction.
 - 2. The City will construct a temporary one (1) foot berm along the north side of the parking lot, install eight (8) inches of stone backfill to finished subgrade and cap with a four (4) inch layer of dense graded base.
 - 3. City will install storm drainage and sanitary sewer in parking lot.
- (b) City shall install drainage along Jefferson Street and Spragins Street for the Project Owner to begin construction within the Development area.
- (c) City shall coordinate with Huntsville Utilities for the relocation of the existing water line on Holmes Avenue from Spragins Street to Jefferson Street.
- (d) City shall obtain ADEM Stormwater Permit for city work to occur. The Project Owner will be responsible for transferal of the ADEM Permit upon the City's completion of Phase I work.
- (e) City shall install sanitary sewer items along Jefferson, Holmes, and Spragins streets.

The City anticipates approximately a 3-month construction duration to complete Phase I items of work. Upon the City's completion with all work associated with Phase I as described above, the Project Owner is responsible for maintenance, repair and restoration to newly installed infrastructure resulting from damages by the Project Owner.

Phase II Items of Work:

Design and Construction of items up to the Construction Line, as generally shown on the Site Plan in Exhibit B, including but not limited to demolition, grading, curb and gutter, on-street parking, paving, striping, signage, utility relocations, new utilities, retaining walls, planters, railings, lighting, sidewalks, ramps, steps, pavers, hardscape, and landscaping.

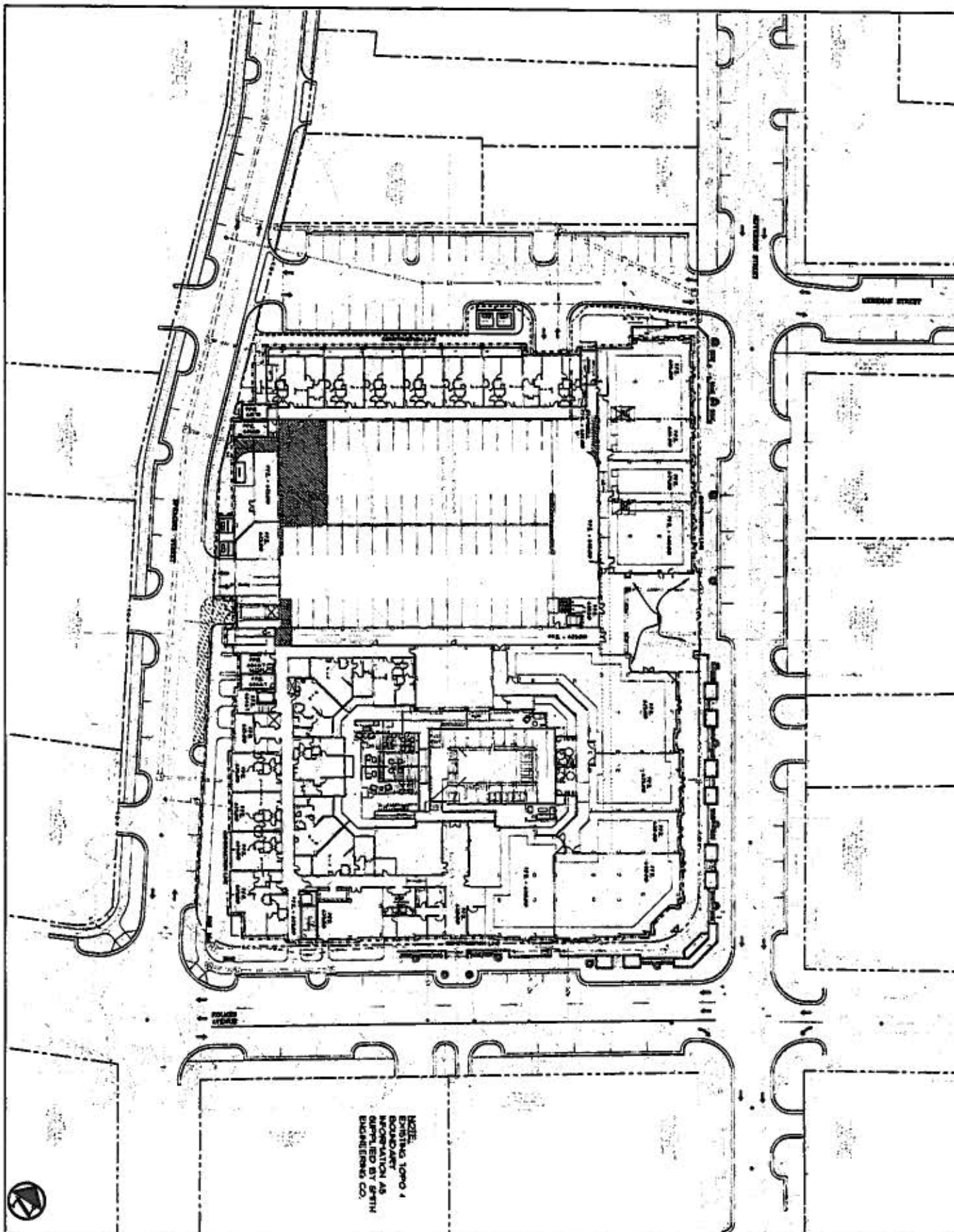
- 1. The Project Owner and the City to coordinate efforts in terms of grades, design, *etc.* The City shall install retaining walls within the construction limits to provide adequate separation for the Development to proceed. The Project Owner will be responsible for backfilling, compacting and testing material adjacent to the northeast retaining wall for site development.
- 2. Project Owner shall be responsible for installation and maintenance of temporary materials for adequate pedestrian and traffic control during construction activities.
- 3. Access and ability to get CO's for the Project will not be hindered or withheld due to the construction of the items up to the Construction Line

4. Any utilities that conflict with construction up to the Construction Line will be relocated by the City.
5. The timing of the construction of the items up to the Construction Line to be coordinated with the construction of the Project and agreed to by the Project Owner so as not to adversely impact the Project Owner's construction schedule for the Project. The City anticipates approximately 12-months to complete items of work listed in Phase II.

EXHIBIT B

SITE PLAN

[to be attached and to show the City Provided Amenities, including the City's Construction Line]



NOTE:
 SEE TOPO &
 SOILS
 REPORT FOR
 INFORMATION AS
 SUPPLIED BY SMITH
 BUCKLEBROS. CO.



1 of 1
 sheet

JEFFERSON STREET
 STREETScape
 "The Avenue" - Site Plan
 Exhibit "B" Construction Line

DATE: January 14, 2014 SCALE: 1"=20'

LAND DESIGN SOLUTIONS

6996 LINDA STREET
 HUNTSVILLE, ALABAMA 35811

256.714.1470

EXHIBIT "C"

FORMS OF ALABAMA IMMIGRATION LAW AFFIDAVITS

FORM FOR SECTIONS 9(a) and (b) BEASON-HAMMON ALABAMA TAXPAYER AND
CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTIONS 31-13-9(a) and (b)
AFFIDAVIT FOR BUSINESS ENTITY/EMPLOYER/CONTRACTOR

(To be completed as a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees)

State of _____
County of _____

Before me, a notary public, personally appeared _____ (print name) who, being duly sworn, says as follows:

As a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, I hereby attest that in my capacity as _____ (state position) for _____ (state business entity/employer/contractor name) that said business entity/employer/contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien.

I further attest that said business entity/employer/contractor is enrolled in the E-Verify program. (ATTACH DOCUMENTATION ESTABLISHING THAT BUSINESS ENTITY/EMPLOYER/CONTRACTOR IS ENROLLED IN THE E-VERIFY PROGRAM)

Signature of Affiant
Sworn to and subscribed before me this _____ day of _____, 2____.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

Signature and Seal of Notary Public

Author: Jean Brown

Statutory Authority: Code of Alabama, sections 31-13-9(a) and (b); Section 31-13-9(h).

History: New Rule: Filed December 12, 2011; effective December 12, 2011

820-4-1-.02ER Contents of Acceptable Affidavit Form For Administering Code of Alabama, Section 31-13-9(c).

FORM FOR SECTION 9(c) BEASON- HAMMON ALABAMA TAXPAYER AND CITIZEN
PROTECTION ACT; CODE OF ALABAMA, SECTION 31-13-9(c)

AFFIDAVIT FOR SUBCONTRACTOR

(To be completed as a condition for performing work on a project paid for by contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity)

State of _____

County of _____

Before me, a notary public, personally

Appeared _____ (print name) who, being duly sworn, says
as follows:

As a condition for being a subcontractor on a project paid for by contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity, I hereby attest that in my capacity as _____ (state position) for _____ (state subcontractor name), said subcontractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien.

I further attest that said subcontractor is enrolled in the E-Verify program prior to performing any work on the project. (ATTACH DOCUMENTATION ESTABLISHING THAT SUBCONTRACTOR IS ENROLLED IN THE E-VERIFY PROGRAM)

Signature of Affiant

Sworn and subscribed before me this _____ day of _____,
2_____.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

Signature and Seal of Notary Public

Author: Jean Brown

Statutory Authority: Code of Alabama, sections 31-13-9(c); Section 31-13-9(h).

History: New Rule: Filed December 12, 2011; effective: December 12, 2011

820-4-1-.03ER Contents of Acceptable Affidavit Form For Administering Code of Alabama, Section 31-13-9(d).

FORM FOR SECTION 9(d) BEASON-HAMMON ALABAMA TAXPAYER AND
CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTION 31-13-9(d)
AFFIDAVIT OF DIRECT SUBCONTRACTOR TO BE GIVEN TO CONTRACTOR

State of _____

County of _____

Before me, a notary public, personally appeared _____ (print
name) who, being duly sworn, says as follows:

I hereby attest that as _____ (state position) for
the direct subcontractor _____ (state business
entity/employer/subcontractor name) for _____ (state business
entity/employer/contractor name) said direct subcontractor has not knowingly employed,
hired for employment, or continued to employ an unauthorized alien. I further attest that I
have verified each of the above-named direct subcontractor's employee's eligibility for
employment. I further attest that I have in good faith complied with Code of Alabama, Section
31-13-9(c)*

Signature of Affiant
Sworn to and subscribed before me this _____ day of _____, 2_____.

I certify that the affiant is known (or made known) to me to be the identical party he or she
claims to be.

Signature and Seal of Notary
Public

*Code of Alabama, Section 31-13-9(c) provides: "No subcontractor on a project paid for by contract, grant, or incentive by the state [of Alabama], any political subdivision thereof, or any state-funded entity shall knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such by sworn affidavit signed before a notary. The subcontractor shall also enroll in the E-Verify program prior to performing any work on the project and shall attach to the sworn affidavit documentation establishing that the subcontractor is enrolled in the E-Verify program."

Author: Jean Brown

Statutory Authority: Code of Alabama, section 31-13-9(d); Section 31-13-9(h).

History: New Rule: Filed December 12, 2011; effective December 12, 2011.

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 1/22/2015

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Project Agreement with Avenue Huntsville, LLLP

Document Name: Project Agreement with Avenue Huntsville, LLLP

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

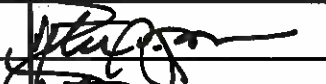


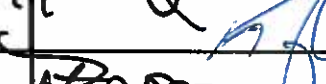
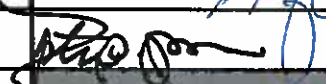
Account Number:

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
-----------------------	-----------------------

Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
-----------------------	-------------

Department	Signature	Date
1) Originating		<u>1-21-15</u>
2) Legal		<u>1-21-15</u>
3) Finance 		<u>1/21</u>
4) Originating		<u>1-21-15</u>
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		